ALERON H. LARSON, JR.

IBLA 87-756 Decided June 9, 1989

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, deeming a simultaneous oil and gas lease application unacceptable. E-37517.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas lease application is properly deemed unacceptable where, although the identification number on Parts A and B is the same, each part lists a different entity as the applicant.

APPEARANCES: William B. Collister, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Aleron H. Larson, Jr., has appealed from a decision dated July 27, 1987, by the Wyoming State Office, Bureau of Land Management (BLM), deeming his simultaneous oil and gas lease application unacceptable. Appellant was the priority applicant on Eastern States parcel 191 in the June 1987 simultaneous oil and gas lease filing.

On Part A of appellant's automated form, the applicant's name is listed as "Wissota Petroleum Corp." On Part B of the automated form, the applicant's name is entered as "Aleron H. Larson, Jr." Both forms contain the same address and the same identification number, which appellant states is his social security number. In his statement of reasons, appellant asserts that Wissota Petroleum is a family corporation of which the only stockholders are Aleron H. Larson, Jr., his wife, and his children. BLM deemed appellant's application unacceptable because the identification number used "is associated with Wissota Petroleum." BLM noted that 43 CFR 3112.2-1(e) requires applicants to enter their social security numbers on the applications, but that corporations and other entities shall use their Internal Revenue Service number or taxpayer number. The decision went on to state that under 43 CFR 3112.3(a)(2), "Any Part B application form shall be deemed unacceptable and a copy returned if, in the opinion of the authorized officer, it: (2) Is received in an incomplete state or prepared in an impro-per manner that prevents its automated processing."

Appellant contends that the "name mismatch" in this case falls under the rule of Edward F. Scholls, 93 IBLA 138 (1986), where the applicant had darkened one circle incorrectly under his social security number on one part of the application. We held in Scholls that where a simultaneous oil and gas lease application has been included in a drawing and been accorded priority, subsequently discovered mismatched Parts A and B identification numbers could not be used as a basis for finding the application unacceptable. In so holding, we departed from the precedent reflected in Newman Partnership, 79 IBLA 281 (1984), and Rocky Mountain Exploration Co., 77 IBLA 15 (1983), that failure to properly complete the information required on a simultaneous oil and gas lease application renders the filing unacceptable. (In Newman Partnership, the applicant had written his identification number correctly on Part B, but darkened two incorrect circles. In Rocky Mountain Exploration, Inc., the applicant had transposed two numbers when filling in his identification number on Part B of the application.) The United States District Court in Wyoming reversed these decisions, relying on the Tenth Circuit's decision in Conway v. Watt, 717 F.2d 512 (10th Cir. 1983), which held that simultaneous oil and gas applications cannot be rejected for trivial and inconsequential reasons. Newman Partnership v. Clark, No. C84-249-K (D. Wyo. Nov. 21, 1984); Rocky Mountain Exploration Co. v. U.S. Department of the Interior, No. C84-0033-B (D. Wyo. Nov. 20, 1984).

We said in Scholls, however, that following the decisions in Rocky Mountain and Newman Partnership

> does not mean the Board will apply the Conway rationale to all defects in simultaneous oil and gas lease applications. Indeed, as the court observed in Brick v. Andrus, 628 F.2d 213, 2[16] (D.C. Cir. 1980), "the Secretary can properly adopt per se rules if he deems them useful in the administration of the [simultaneous leasing] program--even rules the application of which may at times yield results that appear unnecessarily harsh." The meaning of this principle is further explained in KVK Partnership v. Hodel, 759 F.2d 814 (10th Cir. 1985), where the court observes that its Conway opinion must be limited by the consideration that: "[W]e did not hold that the agency may never adopt per se requirements. Read in light of its facts, Conway holds only that a BLM regulation may not be per se grounds for disqualification if it does not further a statutory purpose." Id. at 816.

93 IBLA at 141. We then concluded that "[i]n the case of mismatched identification numbers * * * the Department apparently has determined that there is no longer a statutory purpose to be served to require a per se rule disqualifying successful applications which contain mismatched numbers." Id. This statement was based on the fact that the Solicitor elected not to appeal the Rocky Mountain and Newman Partnership decisions, in part on the grounds that the

> automated system has been refined so that mismatched BANS [Bureau applicant numbers] on Parts A and B will not be discovered and the application returned to the applicant before the random selection

> of applicants occurs. Thus, the situations which allowed the application in these two cases to be selected before the mismatches were detected are not likely to reoccur.

Id. at 140-41.

[1] The application now before us is not a "mismatch" case in any way similar to the above cases. Here, the identification number on Larson's application is associated with two distinct entities: the applicant in his individual capacity (Part B); and Wissota Petroleum (Part A). In his statement of reasons, appellant asserts that he "intended this application to be an individual application." However, without a Part A identification number assigned to him, the application cannot be distinguished as distinctly that of Aleron H. Larson, Jr. Moreover, BLM cannot efficiently process Part B because to do so it would have to disregard the entity "Wissota Petroleum" associated with the identification number on Part A. The discrepancy clearly impedes the determination of the first-qualified applicant and warrants disqualification of the application. KVK Partnership v. Hodel, supra; A.W. Rutter, Jr., 104 IBLA 296 (1988). Under 43 CFR 3112.3(a)(2), BLM properly deemed appellant's application unacceptable.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Will A. Irwin
Administrative Judge

I concur:

Franklin D. Arness
Administrative Judge